

**DRAFT
DECEMBER 16, 1996**

**REPORT ON
GOVERNMENT RESTRUCTURING
FOR THE
CITY OF MINNEAPOLIS
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EXECUTIVE SUMMARY

This report addresses solutions to problems of organizational structure in Minneapolis city government reflected in its home rule charter. Without becoming entangled in the many procedural details in the charter, this report encourages the establishment of a strong Mayor-Council form of local government. It separates policy making from administration and recommends that the Mayor be responsible for the administration of the departments of the city and the implementation of council policies.

Centralized administration would be further promoted by transferring functions now performed by independent boards to city departments. Through this revised structure, lines of authority will become more certain and predictable, and a more simplified charter will make city government more understandable to all who participate in it.

This report demonstrates that the Minneapolis City Charter is flawed in fundamental ways and raises issues that must be answered if meaningful revision is to take place. A more simplified model charter has been prepared for discussion purposes and is contained in Appendix B. This report represents an alternative to the present system of governing the City of Minneapolis.

INTRODUCTION

Minneapolis is a city like many urban centers besieged with crime, drugs, deteriorating housing, decreasing resources and increasing needs. As the fabric of the city wears thinner, governmental solutions seem remote and often irrelevant. While all large cities in America have experienced difficulty in effectively responding to inner city problems and while much of the societal erosion may seem beyond the control of governmental action, the ability to focus resources where they are needed is within the control of local governments.

The capacity of a city to establish city-wide priorities, and to make them operational is greatly influenced by its governmental structure and organization and by its unwritten de facto processes of operation.¹ In Minneapolis, a weak mayor system, together with an archaic charter marked by complexity, confusion, and inconsistency, contribute to a pervasive frustration by the mayor, councilmembers, department heads, agencies and citizens in making decisions, not only in addressing city-wide problems, but also in dealing with governmental matters largely considered routine. What many hail as the virtue of a decentralized government, others justifiably regard as chaos.²

The Minneapolis Charter was adopted in 1920. Its 115 pages abound in procedural detail substantially disregarded in the city's affairs. It diffuses decision-making to the point where

¹ Government Structure, Minneapolis and St. Paul Study, State Planning Agency, June, 1978, p. 11. This study deals with the impact of structural deficiencies in Minneapolis' city government in financial management and budgeting. Much of what was concluded applies in a broader way to city government.

² Id., p. 45-46. On page 46 the study observed that "Minneapolis' city government is so complex that even experienced people have different opinions of how it really works."

many grants of authority are merely illusory. Department head accountability is clouded by an appointment process in which the Mayor, the Executive Committee and the City Council are all active participants. It only takes a cursory reading to raise the question: "Who is in charge"?

The history of the charter reveals a great deal about why Minneapolis city government is beset with so many organizational problems. When the first charter commission was called upon in 1920 to draft a home-rule charter for Minneapolis, it "...merely codified the laws then in force relating to Minneapolis..."³ Almost immediately, efforts were underway to establish an entirely new charter.⁴ Instead, during the next half century over fifty charter amendments and legislative acts were adopted relating to the city's government.⁵ This tradition of dealing ad hoc with governance issues continues today.

In devising the charter -- the road map for city authority and operations -- the model city charter developed in 1922 by Professor William Anderson was not available. Many of the features of that model charter are still reflected in most contemporary home-rule charters in Minnesota including Crystal, Bloomington, Detroit Lakes, Blaine, Plymouth and Richfield.⁶ Professor Anderson proceeded on the principles that a good charter should (i) be simple and brief, (ii) omit details, (iii) contain broad general grants of power, and (iv) establish a simple, responsible municipal organization. The present 115 page Minneapolis Charter ignores each of these essential principles. By comparison, the model charter is 13 pages.

³ History of Minneapolis, Shutter, Rev. Marion D., S.J. Clarke Pub.Co., 1923, p. 116; footnote 1, p. 13

⁴ In 1920-21, an organization consisting of 200 members, known as the Citizens Representative Charter Committee was formed. Whether it actually completed its work is not known.

⁵ See footnote 1, page 13, where the study observes: "Minneapolis City Government is very complex."

⁶ League of Minnesota Municipalities, (now League of Minnesota Cities) Publication 100a.3, "Cost of Charters or Charter Revisions Recently Submitted in Minnesota Municipalities," Nov., 1965.

This report advances the view that major charter revision is long overdue, and that a restructuring of Minneapolis city government and a reallocation of authority will vastly improve the decision-making processes and reduce the cost of government operations. The ultimate objective should be to (i) direct city resources in a more efficient and economical way in addressing the problems that besiege the city, and (ii) provide for city residents a government that is understandable and accessible.

Part I of this report describes the Minneapolis City Charter. Many of its provisions, as will be seen, are irrelevant, invalid and archaic. The inflexibility of outdated procedural rules is apparent. But more importantly, the reader will see that the structure, organization and authority allocation set out in the charter do not serve the city well. Part II of the report then briefly discusses how the current governmental structure complicates decision-making of the various players in the city organization. Part III focuses on issues that are in need of resolution. Part IV offers recommendations for restructuring city government and reallocating authority.

This report should not be seen as definitive, but rather as a working document to be considered for further refinement. Indeed, some may believe that because of the political culture of the city and the scope of the inquiry, the undertaking is too formidable to even attempt. Perhaps the best response to any such assertion is that similar claims were made when the Hennepin County reorganization took place over fifteen years ago. That experience demonstrated that if the desire and political will exist to make the change, the change can and will happen.

I.

The Minneapolis City Charter

A.

Mayor

Few public offices are burdened with such high public expectations and are clothed with such minimal real authority as the office of the Mayor of Minneapolis. After addressing the City Council annually on the state of the city, as required by Chapter 3, Section 1 of the Charter, proposing plans, programs and priorities of the city, the Mayor is virtually powerless to carry out any of these goals. Indeed, after the Mayor's annual state of the city address, the City Council is required to review those goals and make "any desired amendments thereto" and approve them before the Mayor's budget submission before August 15 of each year.⁷

An evaluation of the responsibilities of the Mayor indicates that the powers of the office, with the exception of authority over the police department, are found in nominating and appointing, vetoing, and recommending.⁸ Legally, the Mayor has little or no administrative or executive authority over the city's department heads.

1. **The Watchdog Role.** Although the watchdog role of the Mayor is set out in Chapter 3, Section 1, it is difficult to understand its consequences. That section declares that "[t]he Mayor shall take care that the laws of the State and the ordinances of the City are duly observed and enforced within the City." The Mayor is given standing to maintain "an action of mandamus or other appropriate action against any delinquent city officer" in the discharge of that officer's duties. Who those "officers" are, and what other "appropriate action" may be, is not

⁷ Charter, Chapter 3, Section 1; and Chapter 5, Section 8.

⁸ For a list of the Mayor's duties, see Appendix A.

clear. What is clear is that mandamus is a legal proceeding brought to require the execution of ministerial functions.⁹ One can not, however, reasonably infer from this language that the Mayor is vested with general administrative or executive authority over department heads.

2. **The Mayor's Relationship to the Coordinator.** Nor can it be said that the authority of the Mayor can be exercised through the Coordinator's office. The Charter merely authorizes the "appoint[ment of] a City Coordinator as provided by ...[the Executive Committee]."¹⁰ The City Council is given authority to "prescribe by ordinance or resolution the general duties and fix the compensation of the City Coordinator."¹¹ Chapter 21 of the City Code, enacted under the authority of Chapter 3, Section 3, establishes the "general duties" of the Coordinator. Nothing in the Minneapolis City Code, Chapter 21, provides for authority of the City Coordinator over department heads. The Mayor and the City Council jointly, under Code Section 21.20, evaluate and supervise the Coordinator. However, the Coordinator reports to the City Council, the Executive Committee and the Mayor.

Organizationally, the Coordinator supervises the Budget Director¹² the Planning Director,¹³ and the Purchasing Director.¹⁴ Although other functions are placed in the Coordinator's office (relating to the finance officer,¹⁵ the human resources director and others),

⁹ Ministerial functions are functions that do not require the exercise of discretion or are mandatory; signing a contract or disbursing funds are considered ministerial.

¹⁰ Charter, Chapter 3, Section 3.

¹¹ Id.

¹² Code, Chapter 5, Section 8.

¹³ Charter, Chapter 13, Section 1A.

¹⁴ Code, Section 18.30.

¹⁵ Code, Section 17.50

numerous other Charter provisions create a myriad of responsibilities that are specifically established by the Charter or Code and impose duties and responsibilities on the Mayor, City Council and Planning Commission independent of the Coordinator's direction. The Coordinator's office is more of a staff services department head than a city manager or operations officer. Even here, the lines of authority are murky and confused. In truth, there is no chief administrator or executive officer of the city of the kind found in Hennepin County, strong mayor forms of government and city manager forms of government.

3. **Veto Authority.** Although the Mayor may not initiate policies or legislation or administer departments, a limited system of checks and balances operates through the Mayor's veto authority. That authority extends to "[a]ll ordinances, resolutions and other actions of the City Council, except those related to its organization, rules or proceedings...."¹⁶ The veto authority also applies to the Park and Recreation Board.¹⁷ Both bodies can override the Mayor's veto by a two-thirds majority. Under the organic act creating the Minneapolis Community Development Agency (MCDA),¹⁸ the veto power can be used with regard to "the passage of any ordinance changing the number of commissioners, the term of office of the commissioners, or the appointing authority of the commissioners...."¹⁹ Moreover, development approvals, such as those required for tax increment plans under Minn. Stat. § 469.175(3), are subject to the Mayor's veto. But the veto power, while significant under some circumstances, gives no control over administration of the city.

¹⁶ Charter, Chapter 3, Section 1.

¹⁷ Id.

¹⁸ Laws 1980, Chapter 595, Section 2, Subd. 1(a).

¹⁹ Id.

4. **Appointing Authority.** The Executive Committee, consisting of the Mayor, the President of the City Council and three other members of City Council, "shall have the exclusive power to appoint and remove during their terms of office the Police Chief, Fire Chief, City Engineer, Commissioner of Health, City Attorney, City Assessor, City Coordinator, Civil Service Commissioner, and any officer in a department or agency who, by statute, charter or ordinance, is appointed by the Mayor or City Council...."²⁰ These, of course, are among the key positions in city government, but this odd process is not as simple as the grant of "exclusive power" implies. In fact, appointments may only be made from nominations submitted by the Mayor, and appointments by the Executive Committee must be approved by the City Council.²¹ Thus, in order to assure that every elected official has a say in who becomes a department head, three separate processes - nomination, appointment and approval - are used. Even lifetime federal judicial appointments only have a two-step process.²² Significantly, neither the Mayor, Coordinator, nor any other officer has exclusive appointing or supervisory authority over these key city department heads. Without that authority, focusing on established city goals and priorities becomes a daily challenge.

5. **Power Over the Police Department.** The Mayor has more authority over the Police Department than any other department. Under Chapter 6, Section 1, the Mayor is "vested with all the powers of [the]... city connected with and incident to the establishment, maintenance, appointment, removal, discipline, control and supervision of its police force, subject to the limitations herein... and the civil service chapter of this Charter...." In addition, the Mayor has

²⁰ Charter, Chapter 3, Section 4.

²¹ Id.

²² U.S. Const., Article II, Section 2.

the power to make rules and regulations, to make and enforce orders and is charged with the responsibility for all public property connected with the police department.²³ Subject to civil service, the Mayor appoints members of the police force, including civilian members, and prescribes the title, rank and duties of these members.²⁴ This section of the Charter also contains a ratio of police employees to city population and permits, if conditions require, the appointment of temporary police for up to one week without Council consent. The Chief of Police is one of the department heads appointed by the Executive Committee under Chapter 3, section 4. However, Chapter 6, section 1 provides for reappointment by a majority of all members of the City Council. Special police officers (reserves) may be appointed by the Mayor, if requested by "any person, firm, society or organization...."²⁵

Although the Mayor appears to have considerable authority with respect to the police department, the Police Chief is answerable to the Mayor, Executive Committee and Council officials in the appointment process. Moreover, for some unstated reason the Mayor is replaced in this chain of command with regard to "all orders of the City Council so far as they may relate to the preservation of the health of the city...."²⁶ In such cases, the Chief is required to respond to the direction of the City Council. Perhaps this exception flows from the Council's "general supervision and administrative control" over the city's health department.²⁷ Whatever the reason, the Mayor's direct authority over the Police Chief is diluted by this procedure.

²³ Charter, Chapter 6, Section 1.

²⁴ Id.

²⁵ Charter, Chapter 6, Section 3.

²⁶ Charter, Chapter 14, Section 8.

²⁷ Charter, Chapter 14, Section 2.

6. **The Duty to Recommend.** Recommending legislation and "other actions" and "such measures as may be deemed advantageous to the City," is a task which most mayors would undertake even if it were not made a duty by the Charter.²⁸ In fact the goals set forth in the State of the City message²⁹ and the Mayor's annual budget³⁰ are little more than recommendations to the City Council. Whatever these recommendations may be, the Mayor has little or no authority under the Charter to implement them. After the recommendations have been considered by the Council and even if they were adopted by the Council, the Mayor has no authority over department heads (except for failure to perform duties as may be enforceable in the courts by mandamus) to administer the policies established by the Council.³¹

²⁸ Charter, Chapter 3, Section 1.

²⁹ Id.

³⁰ Charter, Chapter 5, Section 8.

³¹ Charter, Chapter 3, Section 1.

B.

The City Council

A distinction between approval of governmental actions, policy making and managing does not exist in the Charter. The City Council is generally responsible for all three of these aspects of governing the city. In Minneapolis city government, the failure to separate administration from policy has resulted in council member disagreements being played out in the operational arena of city government. Continuing frustration and low morale can be and often are the by-products of these activities. A review of the Charter provisions pertaining to the Council's powers clearly shows this merger of legislative and administrative functions.

1. The Council's Law Making Functions. The model charter proposed by the League of Minnesota Cities,³² using Professor William Anderson's approach, grants broad authority to enact ordinances to the Council and declares simply that "all legislation shall be by ordinance." The Minneapolis Charter, with great prolixity, makes a broad grant of lawmaking authority "for the government and good order of the City" and then proceeds to enumerate forty-two specific categories of ordinances the Council is empowered to enact ranging from the location of stock yards to the regulation of the size and weight of bread.³³

Legally, a broad grant of authority is all that is needed. While courts generally construe municipal powers through the doctrine of express and implied powers, under a number of circumstances, as where the charter contains a general welfare or police power clause, Minnesota

³² LMC Document No. 100a.5, 1977.

³³ Charter, Chapter 4, Section 5.

Courts give a liberal construction to municipal powers. Consequently, much of the specificity in the Minneapolis City Charter is legally redundant.

Specificity in charters can present serious problems for the efficient and effective governing of a city. Although law (ordinance enactment) and policy are often said to be different, the policies of the city are embodied in its laws. The difficulty in amending charters³⁴ means that the cleansing of the Charter of archaic and irrelevant standards is not often undertaken. Modification of standards and policies through ordinances as changing circumstances requires is more easily accomplished. The result is that many provisions in the Minneapolis City Charter are simply ignored by elected and appointed officials alike.

2. **The Council's Role as Administrator.** Under the League's Model Charter, whether the city is governed through the council-manager plan or the strong mayor-council plan, council members are prohibited from giving orders to administrative subordinates³⁵ and the division between the governmental approval/policy adoption process and management is preserved. If administrative authority is not given to the Mayor or the City Coordinator by the Charter, an alternative is to divide that authority between the City Council and the city's department heads. In Minneapolis, this is what appears to be done in the Charter. In the absence of the prohibition referred to above, Council Members are free to provide individual direction, not only to departmental heads but to subordinates within the departments as well. This occurs routinely. Thus, an unsettling and counter productive de facto administrative process prevails in Minneapolis city government.

³⁴ See Minn. Stat., Chapter 410 et seq. which sets forth the methods for amending charters. Except where unanimous council approval is obtained, these methods are expensive and time consuming.

³⁵ Publication 100a.5, 1977; see Section 209.

a. **The Council and the Coordinator.** Although the Charter authorizes the Executive Committee to appoint the City Coordinator, no real authority is given to the Coordinator by the Charter. Any authority or duties with regard to the Coordinator's administration of city affairs is to be prescribed by ordinance or resolution of the City Council. Such delegations are limited to staff services, that is, to services performed to aid departments in planning, budgeting and purchasing, human resources and similar functions. No administrative authority over department heads has been delegated by the City Council to the City Coordinator.³⁶ As a consequence, the City Council has retained a dominant management role over the administrative functions of line departments, particularly as to functions that relate directly to services to the public.

b. **Uncertainty in the Council's Management Authority.** Although the City Council retains management control, several provisions of the Charter render its authority in this area uncertain.

(1) Chapter 4, section 14 categorically grants to the City Council "the management and control of the finances and all property of the city...." Even as simple a directive as this does not mean what it states. "All property" does not mean all property. For example, Chapter 6, section 1 gives the Mayor "the care and custody of all public property connected with the police department of the city".

(2) Although "the management and control of the finances ... of the city" are given to the City Council, the Finance Officer is given specific duties by

³⁶ Code, Sections 21.10-21.50; Laws 1986, Chapter 473; Laws 1988, Chapter 433; Laws 1989, Chapter 54.

the Charter notwithstanding the grant of power to the Council. When the office of the comptroller/treasurer was abolished by Laws 1983, Chapter 160, the City Council was authorized to reorganize, consolidate, or delegate the functions, duties, and responsibilities of the comptroller-treasurer. The finance department was to assume those reorganized duties and functions. The new department was authorized to do so by Code Chapter 17. Under that Chapter, the Finance Officer "oversee(s) all functions of the finance department," and exercises and performs "all of the powers and duties of the Finance Officer set forth in the City Charter or applicable [state laws]." But this does not end the sources of power of the Finance Officer. By Code Section 17.60(d), both the city council and the coordinator may delegate "additional powers" to the Finance Officer. The delegation concept is not difficult to comprehend with regard to the Council, since the Charter has given it "the management and control of the finances...of the city" (except that which has been vested directly by the Charter in the Finance Officer.) However, no authority to delegate is given in the Charter to the Coordinator. Instead, the Coordinator supervises, controls, and directs the office of the City Coordinator "which shall provide administrative and management services for the city...."³⁷ The result is that the Finance Officer has duties and authority emanating from the Charter apart from the Council and the Coordinator and additional duties delegated from the Council and the Coordinator.

³⁷ Code, Section 21.10.

- (3) The Charter is replete with references to specific funds that limit more accepted ways funds could be more effectively established and handled. Thus, while tort claims should be accounted for in a self-insurance fund, Chapter 5, Section 11 suggests that "payment of any damages for injuries to any person caused by defective sidewalks in the City," is to be made from the general fund. The financial provisions of the City Code should be reviewed for consistency with the Charter. The practices should correspond to those established in the Charter or the Charter should be amended to authorize current practices. Ideally, the Charter should be amended to simplify the fund structure consistent with modern concepts of municipal fund accounting and the details of fund management left to ordinances or internal department procedures.

c. **Authority of Department Heads and the City Council.** The task of ascertaining administrative and management responsibility under the Charter is difficult at best. No simple generalization can be offered to instruct department heads concerning the authority they exercise directly under of the Charter and the authority they may exercise through delegations from the Council. Moreover, the exercise of delegated authority by a department head will raise the issue of whether that authority is lawfully delegable.

- (1) **The Council and the City Engineer.** The City Council is, under Chapter 8, Section 1, responsible for "the care, supervision and control of all highways, street, alleys, public squares and grounds within the limits of the

city...." The Council "shall have power" over street grades³⁸, street, highway or alley vacations³⁹, and street cleaning.⁴⁰ The Council awards contracts for work or construction,⁴¹ opens streets and bridges and determines drainage,⁴² orders repairs to sidewalks and determines the work it is to be done.⁴³ But the City Engineer is vested by Chapter 3, Section 9, with the same authority. Section 9 gives to the City Engineer "supervision and general charge of all work done for the City and of all work done on any street, highway or alley in the city..." including sidewalks, street crossings, bridges or other structures in or on the streets. Although Chapter 3, section 9 gives this authority to the City Engineer and various sections of Chapter 8 give the same authority to the City Council, the need for approval by the Council in the City Engineer's activities is not clear unless the reader refers to other city code provisions, such as those found in Code Chapter 22. On those matters not clarified by ordinance, it can be urged that professional engineering discretion belongs to the City Engineer by reference to Chapter 3, section 11. On the other hand, with equal force, it can be argued that several sections of Chapter 8 require that such discretion belongs to the Council. However this language is read,

³⁸ Charter, Chapter 8, Section 2.

³⁹ Charter, Chapter 8, Section 3.

⁴⁰ Charter, Chapter 8, Section 4.

⁴¹ Charter, Chapter 8, Section 5.

⁴² Charter, Chapter 8, Section 10.

⁴³ Charter, Chapter 8, Sections 13 and 14.

there is, except for the Mayor's veto, no intervening administrative oversight or overall control of the Engineer by the Mayor or professional manager.

- (2) **The Council and the City Attorney.** The City Attorney is the head of the legal department of the city. Under Charter Chapter 3, Section 7, the City Attorney is "elected and appointed by the City Council." However, Section 4 of Chapter 3 provides for appointment by the Executive Committee with "approval" by the City Council; this is the actual method of designating the City Attorney. The City Charter vests the City Attorney with "the control, supervision and direction of all matters of [the] department."⁴⁴ The Charter states that the "City Attorney shall be the legal advisor of the Mayor, City Council, its committees, and all other officers of the city and of the boards...."⁴⁵ Notwithstanding the broad grant of powers and imposition of duties, two observations are important. First, litigation is ultimately controlled by the City Council and, like other matters involving policy disputes on the Council, are played out the operational level of city government. Thus, all decisions to appeal cases or to settle them are considered and decided by the City Council. The only exceptions involve no-fault cases,⁴⁶ workers compensation claims

⁴⁴ Charter, Chapter 3, Section 7.

⁴⁵ Id.

⁴⁶ Code, Sections 16.1100-1130.

under \$35,000.00⁴⁷, payment of tort settlements under \$1000 and nonappealed conciliation court judgments⁴⁸.

Second, (i) where multiple representation is required by the charter in advising; (ii) where governmental, policy and administrative decisions are contested between the Mayor, Council, department heads and agencies; and (iii) where the participation of each is not discretely and distinctly laid out, assertions of conflict in representation are routinely made against the City Attorney. For the attorneys representing differing positions, the conflict may not be legally significant, but it may be significant to the competing interests within the city. Clearly, the structure of the city government exacerbates this perceived conflict. For the most part, however, it is merely symptomatic of organizational confusion and conflict.

- (3) **The Council and the Police Department.** Of all the departments of the city, the City Council's authority is more indirect over the Police Department than any other. As Part IA(5) has indicated, control of the police department belongs ostensibly to the Mayor. The authority of the Council over the police department lies in its appropriating funds for buildings, facilities, and equipment, and in providing compensation for police personnel.⁴⁹ In addition, when requested by the Mayor, the council

⁴⁷ Code, Sections 16.800-16.890.

⁴⁸ Code, Section 16.235.

⁴⁹ Charter, Chapter 3, Section 2.

"shall determine the maximum number of members" of the police department.⁵⁰

- (4) **The Council and the Fire Department.** The control of the City Council over the Fire Department is more complete than the Mayor's control over the Police Department. In the twelve sections of Chapter 7 of the Charter, the Mayor and City Coordinator have no role. Other than recommending goals for the department and vetoing council actions, the fire department exists quite independently of the Mayor. The Council is directed to manage buildings and maintain fire engines, and to legislate on all aspects of the department and its requirements.⁵¹ The Chief Engineer of the Fire Department⁵² is given appointive authority to hire officers and staff, subject to Council approval and civil service regulations. A separate Fire Marshal may also be designated from the department.⁵³ By Chapter 7, Section 12, the Chief is given rule making authority. Code Chapter 173 establishes the composition of the department, broadly defines the duties of the Chief, assistant and deputy chiefs, and captains and further amplifies on the responsibilities spelled out in the Charter.

- (5) **The Council and the Board of Health.** Under Minn. Stats. Section 145A.03, Subdivision 1, the governing body of a city "must undertake the

⁵⁰ Id.; see also Code, Chapter 171, Section 171.10.

⁵¹ Charter, Chapter 7, Sections 1, 2, 3, and 4.

⁵² "Fire Chief" is not a formal title recognized in the charter. In Code Chapter 173, the Chief Engineer is simply called "the Chief."

⁵³ Charter, Chapter 7, Section 7.

responsibilities of a board of health or establish a board of health and assign to it the powers and duties of a board of health." The Attorney General has opined that a health department may be established by resolution or ordinance without a popular vote."⁵⁴ In Minneapolis, the board of health was established by Charter amendment (Chapter 14) and the department was set up by Code Chapter 214. All of the powers of a board of health enumerated in Minn. Stat., Chapter 145 are exercised by the City Council. The Commissioner of Health is appointed in the manner set forth in Chapter 3, Section 4 by the Executive Committee. The Commissioner "shall have the management and control of all matters pertaining to the public health, under the supervision of the City Council."⁵⁵

Again, while the Mayor nominates the Commissioner in the appointment process, Chapter 14 confers no administrative responsibilities for health matters on the Mayor or a professional manager or operations officer. Although the Mayor controls the police department, the City Council directs the Chief of Police in the execution of orders of the Council⁵⁶ with respect to health matters.

- (6) The Council and the Planning Department. The city planning department is established by Chapter 13, Section 1. Its purpose it is to

⁵⁴ Op. Atty. Gen., 225-I-2, Ap. 17, 1952.

⁵⁵ Charter, Chapter 14, Section 8.

⁵⁶ Charter, Chapter 14, Section 6.

"serve as the staff of a city planning commission...." Currently, the Planning Commission consists of ten members, six of whom are elective or appointive political officials, and four of whom are appointed from "legal voters of the municipality." The administrator of the department is the planning director "who shall perform such duties and functions as directed by the City Council and Mayor."⁵⁷ The director is appointed by the Executive Committee in the manner provided in Chapter 3, Section 4. The director and the deputy director serve at the pleasure of the appointing authority.⁵⁸ The City Council is given authority under Chapter 13, Section 3 to adopt ordinances dealing with the administration of the department. Thus, the department must respond to three potentially conflicting directions in the administration of planning objectives for the city -the Mayor, Council, and the Planning Commission. Moreover, after a year-long study of the zoning and land use process in Minneapolis, Peter H. Bachman observed that:

"Without going into any great detail, Planning Department Staff has been cut significantly; the Planning Commission has done little in the way of policy review and comprehensive planning (especially in more recent years); and certain project planning and guideline preparation functions have been shifted to or assumed by the MCDA, arguably subordinating those functions to the development process."⁵⁹

⁵⁷ Charter, Chapter 13, Section 1A.

⁵⁸ Id.

⁵⁹ Report on the Minneapolis Zoning Code and Land Use Decision-making Process, by Peter H. Bachman, January 19, 1990, p. 9.

- (7) **The City Council and the Water Works.** The Charter gives total control of the city's water works to the City Council, including "construction, maintenance, repair and management of everything pertaining to the water works...."⁶⁰ The Council, subject to civil service requirements, "shall also appoint...all officers and employees...necessary for the successful operation and management of [the] waterworks."⁶¹ Indeed, the Council's authority extends to "the right to determine and direct as to the size and quality of all water mains...."⁶² While matters relating to water and sewers would more logically be assumed by the City Engineer, the Charter gives the City Engineer only collateral functions in this area.

⁶⁰ Charter, Chapter 9, Section 7.

⁶¹ Id.

⁶² Charter, Chapter 9, Section 11.

C.

Boards and Agencies

Although, from time to time, there have been challenges to the practice of creating independent boards and agencies to perform the functions of city government, the long history of their use in Minneapolis apparently overwhelms sound reasons for the transfer of their functions to the City Council. If all of the legal authority given to independent boards and agencies were given to the Mayor and City Council, the review functions that the boards and agencies provide would still be performed, but with less expenditure and less duplication of effort.⁶³ Consideration of the centralization of these functions can be addressed by charter amendment or legislation if necessary.

1. The Board of Estimate and Taxation. The 1978 report of the State Planning Agency⁶⁴ states that the Board of Estimate and Taxation "was established in 1919 to provide a central budgetary review and an external check on the city's spending decisions."⁶⁵ At that time, the Board's duties were to set a maximum general city tax rate, school tax rate, park tax rate and library tax rate.⁶⁶ Its function, like the current board, was to set the annual levy for general purpose government and city agencies. In virtually every other city in Minnesota, this task is performed by the City Council.

The Board is given the responsibility of reviewing (as is the Mayor) all budget information of "[e]very office, department, board commission and other agency of the city

⁶³ Government Structure, Minneapolis/St. Paul Study, State Planning Agency, June 1978, p. 50. In fact, the Board of Tax Levy was established by law in 1887.

⁶⁴ Id.

⁶⁵ Id., p. 37.

⁶⁶ Minneapolis City Charter and Ordinances, Vol. 1, Edward A. Stevens, 1888.

financed in any way by appropriations of the city...."⁶⁷ Before October 5 of each year the Board must "fix and determine the maximum amount of money and maximum rate which may be raised in the aggregate by general taxation by the City Council, board or department for each...fund...."⁶⁸ Taxes may not be levied except in the amount fixed by the Board.

In addition, the Board may issue, on request by the City Council, general obligation bonds in any amount up to \$15,000,000.00 "without the approval of a majority of the electors"; may issue promissory notes, certificates of indebtedness, and tax anticipation bonds, and may transfer, upon the request of City Council, appropriations from one fund to another.⁶⁹ To pay for the Board's expenses, the Charter gives taxing authority to the Board up to one-fifteenth of a mill,⁷⁰ which was increased by special legislation to one-tenth of a mill in 1969.⁷¹

The Board does not, however, set levies mandated by the City Charter or state statutes. The Board may not set a levy higher than requested by the Council or another agency, and although it issues general obligation bonds, it has no authority to issue tax increment bonds. Moreover, the Board's control of the overall levy and debt levels does not extend to increasing or reducing amounts for specific programs.

2. **The Park and Recreation Board.** Depending on one's perspective, the City of Minneapolis is either blessed or cursed by the existence of multiple governing bodies. The State Planning Agency study in 1978 reported that "[t]he combination of Minneapolis' charter history,

⁶⁷ Charter, Chapter 15, Section 2.

⁶⁸ Id.

⁶⁹ Charter, Chapter 15, Sections 9, 12, and 15.

⁷⁰ Charter, Chapter 15, Section 3; also note that mills have been converted to tax capacity rate by state legislation.

⁷¹ Laws 1969, Chapter 600, Section 1.

the use of special legislation to effect structural changes, and the requirements of federal and state governments have resulted in a variety of interactions which are complicated and sometimes inconsistent."⁷²

Whatever may be concluded, the Park and Recreation Board, while its nature is anomalous, is in some respects a co-equal to the Minneapolis City Council, at least within its sphere of operation. Chapter 16, Section 1 declares that "[t]he Park and Recreation Board of the City of Minneapolis..., shall be a department of the government of...[the] City", and that "all powers, duties and privileges' belonging to the predecessor Board of Park Commissioners shall in all respects be those of the Park and Recreation Board of the City of Minneapolis." Thus, the Park and Recreation Department is a department of the city governed by a separate Park and Recreation Board.

A review of the legal status and powers of the Board demonstrates how governing bodies proliferate in Minneapolis. The Board has a common seal, a characteristic of autonomous bodies. It has the capacity to enter into and enforce contracts, not in its own name but "in the name of, and in behalf of the City of Minneapolis."⁷³ Thus, the Board has the same authority as the Council to enter into contracts that obligate the city. In many other respects it is also independent of city control. The Board has law-making authority and may enact ordinances for, among other things, "the government and regulation of parks and parkways."⁷⁴ It can purchase or lease land, "create a bonded debt", hire and fire employees, retain attorneys other than those in the City Attorney's Office and may hire other experts.

⁷² Government Structure, Minneapolis-St. Paul Study, State Planning Agency, June 1978, p.45.

⁷³ Charter, Chapter 16, Section 1.

⁷⁴ Id.

The Board may "obtain title" to lands by gift, devise, purchase or lease, or acquire property by condemnation in the name of the city.⁷⁵ While ownership is in the city, the Board has "the right to take possession...to hold, improve, govern and administer the same consistent with its purposes."⁷⁶ However, the "Board may accept title to lands and give back a mortgage...in the name of...[the] city...."⁷⁷

As a consequence of the allocation of authority, the Board in some ways can bind the city to legal obligations, and at the same time, in other ways, is beyond the control of the City Council and the Mayor. (Oddly, the Chapter establishing the Park and Recreation Board does not confer the power to sue and be sued as is explicitly conferred on the Library Board in Chapter 17, Section 1. Whether this is intentional or merely an oversight is not clear.)

The Mayor's relationship with the Park Board is similar to the Mayor's relationship to the City Council. The Mayor has the same power to veto ordinances, resolutions and other actions of the Board, a power that may be overridden by the Board.⁷⁸ As with the Council, the Mayor may also make budget recommendations. The Mayor has authority to appoint, subject to civil service, police officers if the Board so requests, but control and direction and the right to discharge park police officers are retained by the Board.

The City Council has no control over the operating expenditures of the Board. Through the City's comprehensive plan, the City Council can, however, require that the Board conform

⁷⁵ Charter Chapter 16, Sections 2 and 3.

⁷⁶ Charter Chapter 16, Section 2.

⁷⁷ Id.

⁷⁸ Charter Chapter 3, Section 1.

to the plan with regard to capital improvements.⁷⁹ The Board can receive gifts "in the name of the city,"⁸⁰ and can "regulate and control shores and the water contiguous thereto" whenever title to land has been acquired for park purposes.⁸¹

3. **The Library Board.** Chapter 17, Section 1 establishes the Library Board in the City of Minneapolis. The Board has "full power to establish and maintain...public libraries and reading rooms, galleries of art and museums...."⁸² Many of the powers conferred on the Library Board are the same as those conferred on local units of government, such as cities and counties. These include the adopting a seal, suing and being sued, accepting gifts, contracting, taking title to land for the purpose of erecting buildings, and "hav[ing] control of the expenditures of all moneys collected by taxation or otherwise...."⁸³

Here, as with the Park and Recreation Board, the Mayor may propose alternate budgets, but unlike the case of the Park and Recreation Board, the Mayor has no veto power over Library Board actions. As in the case of the Park and Recreation Board, the Council can require accountability to the city's comprehensive plan with regard to capital improvement programs but has no control over the Library Board's operational expenditures.

4. **The Minneapolis Community Development Agency.** When the legislature authorized the City of Minneapolis to establish a development agency, under Laws 1980, Chapter 595, two options were permitted. The first was to "[e]stablish an independent development and

⁷⁹ Government Structure, Minneapolis-St. Paul Study, State Planning Agency, June, 1978, p. 61; see also Minn. Stat. § 462.356, subd. 2.

⁸⁰ Charter Chapter 16, Section 7.

⁸¹ Charter Chapter 16, Section 11.

⁸² Id.

⁸³ Id.

redevelopment agency, corporate and politic, which shall be a governmental subdivision of the state of Minnesota."⁸⁴ The second authorized the city to "[e]stablish a development and redevelopment department of the city."⁸⁵ The City Council chose the first alternative and that selection is significant for Minneapolis city government.

As a result of making the Minneapolis Community Development Agency (MCDA) an independent governmental subdivision rather than a department of the city, that agency is not controlled by the Charter. Instead, its authority and duties are established under the special law of 1980 as amended, and by ordinances adopted by the City Council. Under either option, whether development agency or department, its employees are excluded from civil service.⁸⁶ The MCDA is governed by a Board of Commissioners consisting of all thirteen council members, a selection that can result in the significance of the separation of the City Council and the development agency as autonomous legal entities being lost.⁸⁷

Although recent ordinance amendments, enacted under the authority in Laws 1980, Chapter 595, have attempted to address the issue of cooperation between city departments and the agency, activities that would normally be performed by city departments can, and have been, referred to the MCDA. Thus, MCDA development projects could ignore the city planning department, city attorney, and other relevant review authorities of the city. Code section 422.100, amended in 1996, supports methods for establishing input by "planning, finance and other city departments", but these provisions are for the most part permissive.

⁸⁴ Laws 1980, Chapter 595, section 2 subd. 1(a).

⁸⁵ Laws 1980, Chapter 595, section 2, subd. 1(b).

⁸⁶ *Id.*

⁸⁷ In LSGI v. City of Minneapolis, et al., the Federal District Court chose not to recognize the legal distinction for liability purposes.

Administrative direction is provided by an Executive Director, who is not an employee of the city.⁸⁸ A reading of the Chapter 3, Section 4 would indicate an attempt to include the Executive Director in the appointment process of the city. Chapter 595, Section 2, Subd. 1(a) provides that "[n]otwithstanding the charter...law or regulation, all employees of the agency shall be selected and employed by the board of commissioners and shall not by virtue of employment by the agency be employees of the City of Minneapolis...."⁸⁹ Nonetheless, Code section 422.70 states that "[t]he executive director shall be appointed by the executive committee of the city and confirmed by the City Council."

Under Code Section 422.40, the Mayor is given veto power over "all actions of the board," presumably to comply with Laws 1980, Chapter 595, section 2, subd.1(a). The City Council is given authority by ordinance to impose "any...limitation or control" it chooses, subject to bond obligations.⁹⁰ While many benefits can result from these recent ordinance amendments, the retention of earlier language merely confuses the newer, more cooperative relationship between the city and the MCDA apparently intended by these changes.

⁸⁸ Laws 1980, Chapter 595, Section 2, subd. 1.

⁸⁹ Note that Charter Chapter 3, Section 4 also states "notwithstanding any other provision of this Charter or special law to the contrary...."

⁹⁰ Laws 1980, Chapter 595, Section 4(a).

D.

Findings

The foregoing review of the Minneapolis City Charter focuses on the fundamental relationships between the major players in city government, intentionally excluding the procedural minutiae and outdated and irrelevant provisions. From this review, a number of conclusions can be drawn.

1. The plan of government for the City of Minneapolis was not based upon historically sound or generally accepted principles of local government organization. Although attempts had been made to develop an entirely new charter, the charter commission of 1920 codified provisions of existing laws believed to be appropriate at that time. This formed the basis on which frequent amendments were appended over the next three-quarters of a century.

2. The LMC Model City Charter was drafted using carefully considered governmental and drafting principles. The Minneapolis City Charter was adopted before the Model Charter was developed. The Model Charter is extensively used by cities in Minnesota.

3. The weak-Mayor form of government in Minneapolis disperses decision making power in so many directions that an intelligible system of checks and balances does not exist. This dispersal of decision making power diffuses accountability and makes deflection and avoidance of responsibility common.

4. Many provisions of the Charter are conflicting and inconsistent, leading to multiple interpretations of standards. Because of this confusion, decisions are made on unwritten standards based upon "custom and practice". Moreover, satisfactory answers to questions of allocation of authority and responsibility normally found in city charters in other cities can not be readily found by reference to the Charter.

5. There is no clear distinction in the Charter or in practice between executive, administrative and legislative functions in the structure of government in Minneapolis. Although the public generally views the Mayor as the chief executive officer of the city, the Mayor has no real control over the activities of department heads, and no administrative authority to implement city policies.

6. The City Coordinator is nominally the city's chief administrative officer, but the Coordinator's authority extends only to staff services, and not to the activities of department heads.

7. There is no central administrative or managerial authority in the city. General management of departments of the city is placed under the City Council, with specific duties provided in the charter for department heads. As a result, council members, individually, commonly give direction to department heads and department subordinates on an informal basis.

8. Lines of authority and delegations are unpredictable and difficult to find. Appointments of department heads are made through a cumbersome process in which all of the elected officials are involved in one way or another. The Coordinator must report to the City Council, Executive Committee, and the Mayor.

9. The diffusion of decision making authority makes citywide priority setting difficult, makes the focusing of resources impossible and frustrates the implementation of policies.

10. The absence of administrative oversight places a difficult burden on department heads to "second guess" how their operations coordinate with those of other departments.

11. The proliferation of boards and agencies, with inconsistent Council and Mayoral controls, leads to overlap of functions and additional expense in the city's operations.

12. Even if the basic structure of the city were not changed, major language revisions would aid in removing some of the confusion and inconsistencies that abound in the Charter and the special laws contained in the Charter and elsewhere.

II.

STRUCTURE AND DECISION-MAKING

The mosaic of the Minneapolis Charter is a design for unintelligible government that confuses not only the general public, but those who work in it as well. If the city functions, it functions in spite of the Charter, not because of it. The technical and structural confusion in the Charter is both a challenge and an obstacle to effective, efficient, and economical decision-making.

Minnesota's constitution (Article 12, §4) enables the legislature to authorize home rule by local governments. Subject to those constitutional limitations and those in Minn. Stats., Chapter 410, a charter "...may provide for any scheme of municipal government not inconsistent with the constitution, and may provide for the establishment and administration of all departments of a city government, and for the regulation of all local municipal functions...."⁹¹ Thus, while the law allows for almost infinite possibilities of governmental organization based upon rational principles, the Minneapolis Charter simply continues more as an historical accident than a rational document.

The daily challenge to decision makers in city government is that the city has no central administration to provide on-going guidance in implementing policies, particularly those that have city-wide significance. The undertaking of how one department's activities relates to another is often unclear, and, in an atmosphere of departmental autonomy, is commonly not communicated even to the elected officials.

Occasionally, obstacles are overcome, but not because of direction from the Charter. From time to time, a dominant city theme will result in the creation of an interdisciplinary group

⁹¹ Minn. Stat. , section 410.07.

of higher level employees to develop ways to deal with city wide problems. Thus, CNAP (the Coordinated Neighbor Action Program) filled the gap of central administration to deal with livability issues.

After it became clear to the City Council that substantial personal service contracts and land purchases were not being given adequate oversight before submission to the Council, the Council created the Permanent Review Committee by resolution to assure compliance with city policies and technical standards. But these are matters that routinely should be dealt with through central administration, rather than as ad hoc responses by the Council because of administrative defaults.

Administrative control of the city is also complicated by a failure to assign tasks to where the appropriate resources are located in city government. At times, land acquisitions are done through the public works department and at other times through personnel under the Library Board or the MCDA. Acquisition of property is a fairly routine function of government. Instead of assigning property acquisitions to a single department under a central administrator, the possibility of mistakes and the risk of error is increased by assigning the tasks of acquisitions to persons who only randomly deal with such matters. The adoption of an administrative code would aid in avoiding such pitfalls.

In some cities, ordinances may not be adopted until they are reviewed by the city attorney. The review of ordinances requires careful scrutiny to assure that there are no problems with constitutional issues and case law as well as consistency with related ordinances. Often city attorneys in Minneapolis must deal with such problems in litigation for the first time. A central administrator would not submit ordinances to a council without appropriate legal review.

The lack of central administrative control in the City of Minneapolis can not be over-emphasized. Frustration by Council members in having to follow up on policy decisions with

department heads can be largely eliminated by assigning administrative responsibility to the Mayor and city administrator or an operations officer to manage city departments. Currently, the Mayor is perceived by city residents as the chief executive officer of the city. Yet, after making public recommendations on city issues, the Mayor is virtually powerless to implement those recommendations. Moreover, the City Coordinator does not coordinate city departments. Rather, accountability and responsibility are often deflected when tasks go unperformed or uncompleted.

Problems related to administrative control are only one side of the coin. On the other side is ward parochialism. Although the Neighborhood Revitalization Program was designed to benefit the city as a whole, the establishment of a lottery system for the allocation of limited resources was indicative of a default in decision making that should have recognized city-wide priorities as paramount. How city-wide priorities should be managed is a significant issue for the city, the key to which may be in how city officials are elected.

City leaders, and ultimately the Charter Commission, can deal with many of the issues and recommendations in this report. Only by taking up the challenge, will the city be able to more effectively and economically confront its problems in a time of decreasing resources and increasing needs.

III.

ISSUES

As this report suggests, the issues concerning charter revision are both technical and organizational. Any group, therefore, should focus on both sets of issues if charter reform is to be undertaken.

1. Is the Charter workable in its present state?
2. How extensive do language changes need to be to reduce multiple interpretations?
3. Which current practices should be retained by the city, and which rejected, and of those that are retained which should be included in the Charter?
4. What portions of the Charter and special laws should be included in the City Code of ordinances?
5. Which functions and activities should be delegated to subordinates and which should be retained by elected officials?
6. How would the city benefit from central administration?
7. Where should administrative authority be vested?
8. Is there is a need for boards and agencies to operate independently of the city council? How much could be saved if their activities were performed by city departments?
9. How many departments are needed in city government? Would administrative control be improved by consolidating city activities, e.g., water works into public works department?
10. Should the city adopt a strong mayor form of government, a council-manager form, or continue with its current system?

11. If the current system is preserved, what can be done to improve administrative control of the city government?
12. What level of administrative involvement in department activities is appropriate for policy makers?
13. Should the appointment process be made more simple and uniform for all department heads?
14. How should the lines of authority be delineated?
15. If some or all council members were elected at-large, would the city be able to more effectively address city-wide issues?

IV.

RECOMMENDATIONS FOR RESTRUCTURING CITY GOVERNMENT AND REDRAFTING THE CHARTER

The two most significant aspects of charter revision deal with (i) the confusion caused by technical complexity and (ii) organizational and operational problems related to confusing relationships caused by structural deficiencies. Based upon the findings and the issues raised in this report, the following recommendations are made.

A. Technical Recommendations.

1. The Charter should be redrafted to simplify concepts and clarify where authority should be vested.
2. Language revisions should be undertaken to reduce multiple legal interpretations. Archaic language should be eliminated.
3. Procedural details should be reviewed and be either eliminated or modified, and, if preserved, should be placed in the code of ordinances rather than in the Charter.
4. Broader, more general grants of power should be stated in the Charter, with clear authority to delegate functions which are legally delegable.
5. Current procedures of the city that are inconsistent with the Charter should be reviewed to determine whether they should become the basis of Charter revisions.
6. Internally inconsistent provisions should be reviewed and redrafted to eliminate conflicting language.
7. The relationship between Charter and ordinance provisions should be compared with special and general laws on the same subjects to determine whether Charter provisions are more desirable or needed.

8. Standards should be written with the public in mind so that a reading of the standards will make the processes of government more understandable and more predictable.

B. Substantive and Structural Changes.

1. The Charter should be revised based upon sound organizational and governmental principles rather than compromises based on political expediency and archaic special laws.

2. The administrative control of government should be centralized, with clear and predictable lines of authority stated in the Charter.

3. While governmental decisions and policy making should be vested in the city council, administrative implementation should be separated from Council control.

4. The duties of department heads should be established through ordinances in the form of an administrative code, not specified in the Charter.

5. Consideration should be given (i) to strengthening the Mayor's responsibilities to administer the city and its departments, and retaining a professional manager to assist in this effort, or (ii) to redefine the Mayor's role under a manager-council structure.

6. The operational functions of independent agencies and boards should be accomplished by city departments and should be coordinated by a central administrative authority of the city.

7. The number of city departments should be reviewed with the objective of narrowing the span of control of the central administrative authority.

8. The financial, contracting and purchasing provisions of the Charter should be reconsidered to improve flexibility and to simplify processes. Funds, and rules governing funds, should be re-examined to conform to generally acceptable municipal accounting and auditing principles.

should be re-examined to conform to generally acceptable municipal accounting and auditing principles.

9. The procedure for appointment of department heads and other administrative personnel should be simplified and made uniform.

10. Consideration should be given to having some number of council members run at large, rather than by ward. Broadening the constituent base of council members would broaden the emphasis given to city-wide issues and aid in allocating resources to city-wide priorities.

APPENDICES

APPENDIX A
CHARTER RESPONSIBILITIES
OF THE MAYOR

This memo provides a summary of the charter responsibilities of the Mayor. References to the charter Chapter and Sections are included. The reader should consult the specific provisions. If questions should arise, the City Attorney's Office should be consulted. It is the Mayor's duty:

1. To "take care that the laws of the state and ordinances of the City are duly observed and enforced within the City." Ch. 3 Sec. 1.
2. To "take care that all other officers of the City discharge their respective duties." The remedy to enforce this is "an action in mandamus or other appropriate action against any delinquent City officer." Ch. 3, Sec. 1.
3. To annually address the City Council "on the state of the City proposing ... plans and programs for the physical and economic development of the City." Ch. 3, Sec. 1.
4. To "make recommendations for legislation and other actions by other governmental bodies which actions would assist in ... (the) physical and economic development of the City" Ch. 3, Sec. 1.
5. To "give the City Council such information and recommend such measures as may be deemed advantageous to the City." Ch. 3, Sec. 1.
6. To veto, when deemed necessary, "all ordinances, resolutions, and other actions of the City Council" and the Park and Recreation Board. Ch. 3, Sec. 1.
7. To sign all contracts for the City made by the City Council. This may also be done by one other person designated in writing to do so. Ch. 3, Sec. 1.

8. To call, at the Mayor's discretion, special meetings of the Park and Recreation Board. See the procedure outlined in the Charter. Ch. 3, Sec. 1.

9. To designate a representative on any Board, Commission or Department that the Charter or statutes identify the Mayor as a member of. Ch. 3, Sec. 1.

10. To appoint an administrative deputy and two administrative aides and one administrative assistant and to appoint a director of the office of emergency preparedness. See special law references under Ch. 3, Sec. 1. By Chapter 4, Section 24 adopted November 2, 1993, the City Council was given authority to determine the maximum number of administrative aides on the Mayor's staff. All are in the unclassified service. The minimum required is one administrative deputy, two administrative aides, one administrative assistant, and one executive secretary.

11. To be a member of, and Chair, the Executive Committee. Ch. 3, Sec. 4.

12. To make all nominations for positions appointed by the Executive Committee. Ch. 3, Sec. 4.

13. To call special meetings, in the Mayor's discretion, of the City Council. See that section for procedural requirements. Ch. 4, Sec. 2.

14. To prepare and submit a budget to the Council no later than August 15th of each year. Ch. 5, Sec. 8. Both the Mayor and the Budget Director shall be permitted access to all records and information pertaining to the budget "possessed by the City Council, or any City board, commission or other agency" Id. No appropriation resolution or ordinance can take effect until submitted to the Mayor for approval or objection as provided in Chapter 3, section 1 of the Charter. See Chapter 5, Sec. 8.

15. One of the most significant responsibilities of the Mayor relates to the Police Department. Chapter 6, Section 1 vests the Mayor "with all the powers of the City connected

with and incident to the establishment, maintenance, appointment, removal, discipline, control and supervision of its police force, subject to Charter and civil service limitations." Note however, the appointment authority has been amended by special laws giving appointment authority to the Chief. See Laws 1969, Ch. 604; Laws 1977, Ch. 39; and Laws 1978, Ch. 580. The Mayor is authorized in the Charter to "make all needful rules and regulations for the efficiency and discipline [of the police department) and promulgate and enforce general and special orders for the government of the same, and have the care and custody of all public property connected with the police department " The Mayor appoints the Chief. In case of riots or large public gatherings, or other unusual occasions, the Mayor may appoint temporary police for not more than one week without council consent.

16. Under Chapter 11, section 2 the Council is required to annually appropriate not less than \$5,000 as a contingency fund for the exclusive use of the Mayor.

17. It is "the duty of the Mayor (to) forthwith ... inform the City Council" of lawsuits commenced against the City." Under the Charter, copies of process are to be left with the Mayor. See Ch. 11, Sec. 6. Note that service of process under the Rules of Civil Procedure can be accomplished by service upon the City Clerk.

18. The Mayor serves on the Planning Commission. Four members who are not members of the Hennepin County Board, the City Council, the School Board or the Park Board are appointed by the Mayor to the Planning Commission. See Ch. 13, Sec. 1. Each year the Planning Commission is required to file an annual report and forward it to the Mayor. Within 15 days the Mayor must transmit the report to the City Council with comments and recommendations. Under Chapter 13, Section 6, proposals to create or adopt (by the City) "any development district or similar redevelopment project shall first be submitted to the Planning

Commission and to the Mayor for review." Each has 45 days to report comments and recommendations to the Council.

19. The Commissioner of Health is appointed as provided in Ch. 3, Section 4 of the Charter. (Nomination by the Mayor). See Chapter 14, Sec. 8.

20. Under Chapter 15, Section 1 the Mayor is a member of the Board of Estimate and Taxation. Vacancies during the term of the elected members are filled by the Mayor for the unexpired term, with confirmation by the Council. Bonds or obligations must be signed by the Mayor. See Ch. 15, Sec. 19.

21. The Mayor is a member of the Library Board. See Ch. 17, Sec. 2.

22. The Mayor appoints Civil Service Commissioners, subject to approval by the Council. Thirty days prior to the appointment, the Mayor must file the name of the person whom the Mayor proposes to appoint with the City Clerk. See Ch. 19, Sec. 1.

APPENDIX B

PROPOSED CITY OF MINNEAPOLIS CHARTER

[THE PROPOSED CHARTER EMBODIES THE RECOMMENDATIONS IN THIS REPORT AND IS INTENDED ONLY AS A MODEL FOR DISCUSSION.]

CHAPTER 1

GENERAL PROVISIONS

Section 1.01. Name and boundaries. The City of Minneapolis is, and will continue to be, a municipal corporation with the boundaries existing on the effective date of this charter or as later modified in accordance with law.

Section 1.02. Powers. The City of Minneapolis has all powers that it is now or hereafter possible for a municipal corporation in the State of Minnesota to exercise in harmony with the Constitutions of the State of Minnesota and of the United States. It is the intention of this charter that every power that the people of the city might lawfully confer upon themselves as a municipal corporation by specific enumeration in this charter is deemed to have been so conferred by this section. This charter is to be construed liberally in favor of the city. The specific mention of particular powers in this charter is not to be construed as limiting the generality of the powers conferred by this section.

Section 1.03. Other Laws. The city may not exercise a power conferred by general law on statutory cities unless that power is specifically granted by this charter.

CHAPTER 2

FORM OF GOVERNMENT

Section 2.01. Council-Mayor Plan. The form of government established by this charter is the council-mayor plan. The council exercises the legislative powers of the city and determines

matters of policy. The mayor is responsible to the council for the proper administration of city affairs.

Section 2.02. Boards and Commissions. There are no separate boards, agencies or commissions except those required by law or this charter or those established for the administration of a function jointly with another political subdivision. The council performs the duties of and exercises the powers of boards, agencies and commissions. The council may establish boards or commissions to advise the council, to investigate subjects of interest to the city or to perform quasi-judicial functions.

Section 2.03. Council members and Mayor: qualification and terms. Subdivision 1. The council is composed of thirteen council members who must be eligible voters of the city and must further qualify for office as provided in this charter.

Subd. 2. The mayor must be an eligible voter of the city. The mayor and council members must be residents of the city. The council members must satisfy the residence requirements of section 2.04.

Subd. 3. The mayor is elected at large by the eligible voters. A council member is elected by the eligible voters of the ward in which the council member resides.

The mayor and council members are elected for terms of four years. The mayor and council members serve until their respective successors are elected and qualified for office. The term of elected office begins on January 1 and ends on December 31.

Subd. 5. The terms of office of the mayor and council members in office on the effective date of this charter continue in accordance with the transitional schedule adopted pursuant to Chapter 2, Section 3 of the city charter as it existed prior to the effective date of this charter.

Section 2.04. Mayor and Council Members. The mayor must be a resident of the city at the time that filings for elections close, and must remain a resident of the city during the term

of office. A council member must be a resident of the ward at the time that filings for election close. Except as provided in section 2.05, continued residence in the ward in which the council member resides at the time of election or appointment is a required qualification to hold office during the council member's term.

Section 2.05. Wards. The city is divided into thirteen separately numbered wards. Review of the ward boundaries must be made by a reapportionment committee and the wards reapportioned in the manner provided by ordinance no later than two years after the year in which a federal census is taken so that the populations of the wards are as equal as practicable. A ward must be composed of compact and contiguous territory. A change in ward boundaries does not disqualify a ward council member from serving the remainder of a term. If the wards are not reapportioned within the period prescribed, the mayor and council members may not be paid salary or other benefits until the wards of the city are reapportioned. The wards of the city are those described by ordinance on the effective date of this charter.

Section 2.06 Incompatible city offices. An elected officer of the city may not (i) hold another city office or be employed by the city in any capacity for pay; or (ii) hold a city office or be employed by the city for a period of one year after expiration of the officer's term of office.

Section 2.07 Vacancies. Subdivision 1. A vacancy in an elective office exists for the following reasons:

- (a) failure of a person elected to an office to qualify on or before the date of the second regular meeting of the council in the year subsequent to the election;
- (b) death of the officer;
- (c) resignation of the officer;

- (d) except as provided in section 2.05, the officer ceasing to be a resident of the city or of the ward from which elected;
- (e) continuous absence of the officer from the city for more than 90 days;
- (f) conviction of the officer of a felony either before or after qualification for office;
- (g) failure of the officer without good cause to perform the duties of office for a period of three consecutive months;
- (h) removal of the officer from office; or
- (i) another reason specified by law.

When a vacancy occurs for a reason specified in clauses (a) through (i), the council must promptly, by a resolution stating its findings, declare the vacancy to exist. If a vacancy exists in an elective office it must be filled by a special election to be called by the city council. The special election must be held within seventy-five days after the vacancy is declared and shall be conducted as provided for by ordinance.

Section 2.08. Mayor Pro Tem. The council must choose from its members a mayor pro tem. The mayor pro tem holds office at the pleasure of the council and serves as mayor in the mayor's disability or absence from the city or when a vacancy in the office of mayor exists. In the absence of the Mayor, the Mayor pro tem:

- (a) exercises the powers and performs the duties conferred on the mayor by this charter, the ordinances of the city, and law;
- (b) is the official head of the city for ceremonial purposes, for purposes of the service of civil process, and for the purposes of martial law; and
- (c) must report to the council neglect, dereliction of duty, or waste on the part of an officer or department of the city.

Section 2.09 Council salaries. The salaries of the mayor and council members are fixed by ordinance in the manner provided by law.

Section 2.10 Investigation of city officers. The council or a person authorized by the council may make investigations into the city's affairs, subpoena witnesses, administer oaths and compel the production of books and papers. The council may provide for an examination or audit of the accounts of an officer or department of city government.

Section 2.11. Administrative direction. A council member not may dictate the appointment of a person to an office or employment in the city, except such aide or secretary as may be authorized to be employed in the service of the council member. A council member may not give orders, publicly or privately, to persons hired by the city in either the classified or unclassified service.

CHAPTER 3

THE COUNCIL

Section 3.01. Powers and Duties. All legislative powers of the city and the determination of all matters of policy are vested in the council. Without limitation of the foregoing, the council may:

- (a) adopt ordinances and resolutions as authorized by this charter and by state law;
- (b) adopt a city budget for operational and capital purposes;
- (c) create, modify or abolish offices and departments, agencies of the city other than those established by this charter or law, and to assign additional functions or duties to offices and departments;
- (d) approve the appointments made by the mayor.

(e) provide for council approval of contracts exceeding an amount specified by ordinance, bonds or other evidences of indebtedness, leases or sales of land, and joint powers agreements;

(f) conduct audits or inquiries into the operation of any office, department, board, commission or agency of the city; and

(g) conduct legislative and quasi-judicial hearings or delegate such hearings to a committee of the council or to an administrative hearing officer.

Section 3.02. Council Procedures.

The Council may establish committees and internal procedures for the conduct of its business.

Section 3.03. Meetings. At the first regularly scheduled council meeting in January following a regular city election, the newly elected mayor and council members assume their duties. The council meets at the time and place prescribed by ordinance or resolution. The mayor or three council members may call a special meeting of the council upon reasonable notice to council members and other notice as required by law. The meetings of the council are public meetings. Any person may inspect the minutes and records of the council meetings at reasonable times and in accordance with law.

Section 3.04. Council officers. The council may appoint the officers and employees it finds necessary to serve at its meetings. The council must appoint a clerk to the council. The clerk must keep a journal of council proceedings and perform the duties required by this charter, ordinance or resolution.

Section 3.05. Rules of procedure: quorum. The council determines its rules and order of business. A majority of members qualified and acting constitutes a quorum, but a smaller

number may adjourn from time to time. The council may provide by ordinance or resolution a means by which a minority of its members may compel the attendance of absent members.

Section 3.06. Ordinances, resolutions, motions. Legislation must be enacted by ordinance. The affirmative and negative votes on ordinances, resolutions and motions must be recorded. Except as otherwise provided in this charter or by law, an affirmative vote of a majority of the qualified and acting members of the council is required for the passage of ordinances, resolutions and motions.

Every ordinance, resolution or action (except those relating to council procedure) must, before taking effect, be presented to the Mayor for approval. If the Mayor approves the ordinance, resolution or action, the Mayor must sign it, but if the Mayor disapproves it, the Mayor must return it to the Council with stated objections by delivering to the clerk the vetoed ordinance, resolution or action within five days of its passage, excluding the date of its passage, holidays and weekends. At the Council's next regular meeting or at a special meeting called to reconsider the vetoed ordinance, resolution or action, the question on its passage must be reconsidered notwithstanding the objections of the Mayor. If the Council then adopts it by a two-thirds vote of all the members of the Council, it has the same effect as if approved by the Mayor. The vote must be recorded as other votes of the Council. If the ordinance, resolution or other action is not delivered by the Mayor to the clerk within the time specified in this section, it has the same effect as if approved by the Mayor.

Section 3.07. Procedure; ordinances. An ordinance must be presented in writing. The enacting clause of an ordinance is: "The City of Minneapolis ordains:". An ordinance may not be adopted at the council meeting at which it is introduced, unless an emergency is declared. Seven days must elapse between the introduction of an ordinance and its adoption. An emergency ordinance may be introduced and adopted at the same meeting.

Section 3.08. Emergency ordinances. An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, welfare or safety in which the emergency is defined and declared in a preamble to the ordinance and approved by at least seven members of the council. A prosecution may not be based upon the provisions of an emergency ordinance until the earlier of (i) 24 hours after the ordinance has been filed with the council clerk and posted in three conspicuous places in the city, or (ii) the ordinance has been published, unless the person charged with the violation of the ordinance had actual notice of the passage of the ordinance prior to the act or omission contributing to the alleged violation.

Section 3.09. Procedure on resolutions. A resolution must be presented in writing. The resolution must be read in full before a vote is taken on the resolution unless the reading of the resolution is dispensed with by unanimous consent.

Section 3.10. Signing and publication of ordinances and resolutions. Ordinances and resolutions must be signed by the mayor and attested by the council clerk and filed and preserved by the clerk. An ordinance must be published once in the official newspaper. A summary of an ordinance may be published in the manner provided by law. Resolutions must be signed by the mayor and attested by the clerk and filed and preserved by the clerk. Resolutions need not be published.

Section 3.11. When ordinances and resolutions take effect. Resolutions and emergency ordinances are effective immediately upon adoption. Other ordinances are effective upon publication or at a later date stated in the ordinance.

Section 3.12. Amendment and repeal of ordinances and resolutions. An ordinance or resolution repealing (i) a prior ordinance or resolution, or (ii) a section, subdivision or separately identified clause thereof must state the number or, if no number has been assigned, the title of the ordinance or resolution to be repealed in whole or in part. An ordinance or resolution, or a

section, subdivision or clause thereof, may not be amended by reference to the title only. The amending ordinance or resolution must set forth in full each section, subdivision or clause to be amended and indicate new matter by underscoring matter to be omitted by striking out or by other appropriate symbols.

Section 3.13. Revision and codification of ordinances. The council may, pursuant to this section and law, revise, rearrange and codify the ordinances of the city with the additions and deletions found necessary by the council. The ordinance code may be prepared in book, pamphlet or continuously revised loose-leaf form. Copies of the code must be kept available at the office of the city clerk for general distribution to the public free or at a reasonable charge. Preparation of the code is sufficient publication of an ordinance provision not previously published if a notice is published in the official newspaper stating that copies of the code are available at the office of the city clerk.

CHAPTER 4

THE MAYOR

Section 4.01. Powers and Duties. The mayor is the chief executive officer of the city. The Mayor exercises all the powers and duties imposed upon the mayor by this charter, the ordinances of the city, and special and general laws of the state. The Mayor:

- (a) must enforce this charter, ordinances and resolutions of the city, and laws pertaining to the city;
- (b) may veto any ordinances, resolutions, or actions of the city council, except those relating to council procedure, which veto may be overridden by a 2/3 vote of the city council according to the procedure in Section 3.07;
- (c) performs all ceremonial activities related to the city;

(d) . exercises administrative control over all departments, boards, commissions, or agencies of the city existing on the date of the adoption of this charter or hereafter created by the council;

(e) must appoint an administrator or operations officer to aid in the administration of the city, and may delegate such administrative powers and duties as the mayor deems prudent and necessary to such person or to the heads of any department, boards, commission, or agency;

(f) appoints department heads, subject to Council approval; approves the appointment of all subordinate officers and employees, except council aides and secretaries and the council clerk, as certified to the mayor by the Civil Service Board; and appoints and removes, after notice and a hearing, any officer, or head of department in the unclassified service;

(g) must attend, personally or by designated representative, all meetings of the city council;

(h) may recommend to the council for adoption such measures as the mayor deems necessary for the welfare of the city and the efficient and economical administration of the affairs of the city;

(i) must advise the council as to the financial condition and needs of the city, and prepare and submit an annual budget to the council, and be responsible for its administration after council adoption;

(j) must prepare and submit to the council for adoption an administrative code containing the administrative procedures of the city;

(k) must execute all documents purporting to bind the city except as otherwise provided in this charter; and

(l) performs such other duties as may be prescribed by law, charter, ordinance or resolutions adopted by the council.

CHAPTER 5

ELECTIONS

Section 5.01. General election laws to apply. Except as otherwise provided in this chapter the general laws of the State of Minnesota pertaining to registration of voters and the conduct of primary, special and general elections apply to city elections. The council may by ordinance or resolution adopt suitable and necessary supplementary procedures for the conduct of elections.

Section 5.02. Regular city elections. The regular city election is held on the first Tuesday after the first Monday in November in each election year. The election is held at the place or places designated by resolution of the city council. Notice of the election is given in the manner provided by law. Failure to give notice of the election does not invalidate the election.

Section 5.03. Special elections. The council may by resolution order a special election as provided by law and establish the procedures for holding the election. The procedures at a special election must conform to those prescribed by this charter and law.

Section 5.04. Primary election. The council must by resolution provide for a primary election as provided by law and establish the procedures for holding the election. The procedures at a primary election must conform to those provided by law.

Section 5.05. Filing for office. An eligible voter of the city may file for election in the manner prescribed by law.

CHAPTER 6

TAXATION AND FINANCE

Section 6.01. Control of finances. The council is responsible for the financial affairs of the city. The council must provide for the collection and protection of revenues and other assets and the auditing and settlement of accounts.

Section 6.02. Fiscal year. The fiscal year of the city is the calendar year.

Section 6.03. System of taxation. Subject to the state constitution, and except as forbidden by it or law, the council may provide by ordinance for a system of local taxation. In the taxation of real and personal property the council must conform as nearly as possible to law in the assessment of property and the collection of taxes.

Section 6.04. Preparation of budget. The mayor must prepare an annual budget and submit it to the council. The budget must include all the funds of the city except funds consisting of the proceeds of city bonds, utility funds and special assessment funds, but the budget may include those funds at the discretion of the council. The estimated revenues and expenditures for each fund must be shown for each department of the city. The mayor must submit with the budget explanatory statements deemed necessary. The budget must show comparative figures for the current fiscal year, actual and estimated, and for the preceding fiscal year.

Section 6.05. Adoption of budget. Subdivision 1. The budget is the principal item of business at the first regular meeting of the council in September and at subsequent meetings until the budget is adopted. Notice that the budget will be considered by the council at the first meeting in September must be published twice in the official newspaper with the second publication not less than three days prior to the meeting. The notice must state that copies of the

proposed budget are available for public inspection in the office of the city clerk and that the public will be heard at the meeting.

Subd. 2. The consideration of the budget and public hearing must be conducted so as to give citizens an opportunity to be heard. The mayor must review the budget in the detail requested by the council. The adopted budget must set forth in detail the financial plan of the city for the ensuing fiscal year. The sum appropriated by the budget may not exceed the estimated revenues to fund the expenditures.

Subd. 3. The council must by a budget resolution adopt the budget no later than the first week of November.

Subd. 4. The budget resolution must levy sufficient taxes to provide adequate revenues for the budgeted expenditures in the next ensuing fiscal year. The budget resolution must be certified to the county auditor in accordance with law.

Subd. 5. The sums fixed in the budget resolution are appropriated for the purposes identified in the budget resolution.

Subd. 6. If a different schedule and procedure for the adoption of the budget is specified by law, that schedule and procedure must be followed.

Section 6.06. Enforcement of budget. The mayor must enforce the budget. The mayor may not approve an expenditure unless funds for that expenditure are appropriated by the budget. The mayor may not approve an expenditure authorized by the budget unless there is a sufficient unexpended balance in the appropriation after deducting prior expenditures from and current encumbrances against the appropriation. An officer or employee of the city may not place an order or make a purchase for the city unless the order or purchase is authorized in the budget and is first authorized by the council except to the extent authorized by the council under section 3.01(e). An obligation incurred by an officer or employee for a purpose not authorized in the

budget or for an amount in excess of the amount appropriated in the budget is the personal obligation of the person incurring the obligation.

Section 6.06. Alterations in budget. The council may not increase the amounts appropriated in the budget resolution beyond the estimated revenues plus unappropriated fund balances, except to the extent that actual receipts exceed the estimated revenues plus unappropriated fund balances. The council may by resolution reduce an appropriation in the budget. The council may by a vote of at least seven members authorize the transfer of sums from unencumbered appropriations in the budget to other purposes.

Section 6.08. Emergency appropriations. The council may include an emergency appropriation in the budget not exceeding ten percent of the budget. A transfer from the emergency appropriation to another appropriation may only be made by resolution approved by a vote of at least seven members of the council. Amounts transferred from the emergency appropriation may be used only for the emergency purposes designated by the council resolution.

Section 6.09. Disbursements. Disbursements of city funds are made by order-checks signed by the chief financial officer of the city specifying the fund on which the order-checks are drawn. The chief financial officer must periodically report disbursements to the mayor. An order-check may not be issued unless the claim to which it relates has been documented by an itemized bill, payroll, time sheet or other document approved and signed by a responsible city officer who vouches for its correctness and reasonableness. The chief financial officer must note on a contract requiring the payment of city funds the particular fund from which the contract is to be paid. The council may adopt additional regulations for the safekeeping and disbursement of city funds.

Section 6.10. Funds. There must be maintained in the city treasury a general fund and the funds required by law, ordinance, the budget resolution or other resolution. The council may make interfund loans except from trust or agency funds.

Section 6.11. Accounting. The mayor is the chief accounting officer of the city. The mayor must keep the council informed of the financial status of the city. The mayor must provide for an annual audit of the city's finances by either the state auditor or a firm of certified public accountants. A summary of the audit must be published once in the official newspaper.

Section 6.12. Debt. Except as provided in section 6.13, obligations may not be issued to pay current expenses, but the council may issue and sell obligations for any other municipal purpose in accordance with law and within the limits prescribed by law.

Section 6.13. Tax anticipation certificates. At any time after January 1st following the making of an annual tax levy, the council may issue certificates of indebtedness in anticipation of the collection of taxes levied for any fund and not yet collected. The total amount of certificates issued against any fund for a fiscal year with interest thereon until maturity may not exceed 90% of the total current taxes for the fund uncollected at the time of issuance. The certificates (i) must be issued on such terms and conditions as the council determines, (ii) bear interest at no more than the lawful rate, and (iii) be due and payable no later than the 1st day of April of the year following their issuance. The proceeds of the tax levied for the fund against which tax anticipation certificates are issued and the full faith and credit of the city must be irrevocably pledged for the redemption of the certificates in order of their issuance against the fund.

CHAPTER 7

PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS

Section 7.01. The city plan. The city council must, with the assistance of the mayor and the city planning commission, prepare and adopt a complete plan for the future physical development of the city. The plan may be altered from time to time. The plan may include provisions for zoning, for the platting and development of new areas, for the planning and location of public works of art, public buildings, parks, playgrounds, harbors, bridges, transportation lines, and other public facilities, and for the laying out, grading and improving of streets and public places, as well as for all other matters deemed essential to the plan. The adoption and enforcement of the plan must be accomplished in accordance with law.

Section 7.02 Powers. The city may make any type of public improvement not forbidden by law and may levy special assessments against benefitted property to pay all or a portion of the cost of a local improvement in the manner prescribed by law. The special assessments for a local improvement may equal the cost of the improvements but may not exceed the special benefit to the property assessed.

Section 7.03. Current services. In addition to the provisions of law the council may provide by ordinance that the cost of city services to streets, sidewalks or other public or private property may be assessed against the property served and collected in the same manner as special assessments.

CHAPTER 8

EMINENT DOMAIN

Section 8.01. Acquisition of property. The city may acquire by purchase, gift, condemnation or otherwise, property within or outside its boundaries that may be needed by the

city for a public purpose. In acquiring property by the power of eminent domain the city must proceed in accordance with law.

CHAPTER 9

FRANCHISES

Section 9.01. Franchises required. Except as otherwise provided by law, a person, firm or corporation may not place or maintain a permanent or semi-permanent fixture in, over, upon or under a street, highway or public way in the city for the purpose of operating a public utility or for any other purpose without a franchise or permit therefor from the city.

Section 9.02. Ordinance. A franchise or permit is granted by ordinance which may not be an emergency ordinance. An ordinance granting a franchise must contain all of the terms and conditions of the franchise. A franchise is not valid unless unconditionally and fully accepted by the grantee and filed with the city clerk.

Section 9.03. Term. An exclusive or perpetual franchise may not be granted by the city. A franchise for a term exceeding 20 years is not effective unless approved by a majority of the voters voting thereon at a regular or special election.

Section 9.04. Public hearing. Before a franchise ordinance is adopted or rates, fares or prices to be charged by a public utility are fixed by the council, the council must hold a public hearing on the matter. Notice of the hearing must be published at least once in the official newspaper not less than ten days prior to the date of the hearing.

Section 9.05. Publication cost. The grantee of the franchise must pay for publication of the franchise ordinance.

Section 9.06. Power of regulation reserved. Subject to the applicable law, the council may by ordinance reasonably regulate and control the exercise of a franchise, including maximum

rates, fares or prices to be charged by the grantee. The value of the franchise may not be included in the valuation of the grantee's property in regulating utility rates, fares or prices under applicable law, ordinance or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain. The rights of a grantee under a franchise are subject to the superior rights of the public to the use of streets and public places.

Section 9.07. Renewals. An extension, renewal or modification of a franchise is subject to the same limitations and is granted in the same manner as a new franchise.

CHAPTER 10

CIVIL SERVICE

[Civil Service provisions have not been addressed in the proposed charter revisions. No changes are intended by the proposed charter. It should be noted, however, that numerous special laws have overridden or augmented the current charter provisions, and should again be reviewed to assure that all provisions are made a part of the charter. If any amendments are intended they should be dealt with as a separate project.]

CHAPTER 11

MISCELLANEOUS AND TRANSITORY PROVISIONS

Section 11.01. Official publications. The council must annually designate a legal newspaper of general circulation in the city as the official newspaper. Ordinances, matters required by law and this charter to be published and other matters that the council deems necessary for publication are to be published in the official newspaper.

Section 11.02. Oath of office. Elective officers of the city and any other officer so required by law or this charter must, before taking office, take and subscribe to an oath in substantially the form required by law.

Section 11.03. Interest in contracts. Except as otherwise permitted by law, an officer of the city who is authorized to take part in any manner in a contract with the city in an official capacity may not voluntarily have a personal financial interest in or personally benefit from the contract. Notwithstanding the provisions of law, this section applies to a contract for which competitive bids are not required by law.

Section 11.04. Official bonds. Officers and employees of the city required by ordinance or law to supply a bond must, before assuming office or employment, give a corporate surety bond to the city as security for the faithful performance of official duties and the safekeeping of public funds. The bond (i) must be in the form and amount fixed by the council, (ii) may be either an individual or blanket surety bond, (iii) must be approved as to form by the city attorney, and (iv) must be filed with the city clerk. Premiums on the bond are paid by the city.

Section 11.05. Sale of real property. Real property of the city must be disposed of by resolution adopted after ten days' published notice of a public hearing before the council on the matter. The net proceeds of the sale of real property must first be used to retire outstanding indebtedness incurred by the city in the acquisition or improvement of that real property and the balance of the net proceeds deposited in the general fund.

Section 11.06. Vacation of streets. The council may by resolution vacate streets, alleys, public ways utility easements, and public grounds, or parts thereof, in the city. The vacation may be made after ten days' published notice of a public hearing before the council on the matter. The clerk must file a notice of completion of the vacation proceedings with the appropriate county official and in accordance with law.

Section 11.07. Effect of charter revision. This charter is effective on _____ and is a revision and comprehensive amendment of the original charter of the city as amended and effective on _____. Nothing in this charter is to be

construed to modify, abrogate or abridge (i) the rights, duties, liabilities, privileges or immunities of the city unless inconsistent therewith, (ii) the ordinances and resolutions of the city, or (iii) the qualifications or terms of office of city officers as they existed on _____, except as otherwise specifically provided in this charter. This charter is not to be construed to affect, modify or repeal any special law of the state applicable to the city.

APPENDIX C

LAWS APPLICABLE TO THE CITY OF MINNEAPOLIS

Four special laws and forty-three general laws, covering a great number of subjects including cemeteries, rubbish removal, the conferring of power, and other matters have been incorporated by reference into the charter. These special and general laws pre-date the adoption of the charter of 1920. Their relevance to the city and to a proposed charter revision should be reviewed and either be included or excluded.

In addition, certain general laws apply to all cities in Minnesota. Examples include the Uniform Municipal Contracting Law, the Municipal Planning Act, and the state liquor and gambling laws. Many of these preempt local charters and ordinances. Some permit the adopting of consistent local laws.

Moreover, the city of Minneapolis has accepted a large number of special laws adopted after the 1920 charter. Each of these should be reviewed to determine whether they should be repealed, continued, included in the charter or adopted as city ordinances.

Each of these three categories of laws should be examined if the city decides to pursue charter revision.